

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Charlie Hartford	Team: Squad #8	CCRB Case #: 201902762	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Friday, 03/29/2019 12:08 AM	Location of Incident: Hopkins Street and Throop Avenue	Precinct: 79	18 Mo. SOL 9/29/2020	EO SOL 5/16/2021	
Date/Time CV Reported Sun, 03/31/2019 5:46 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Sun, 03/31/2019 5:46 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. SGT John Zanca	01700	952366	079 PCT
2. POM Anthony Bomparola	15054	955761	079 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Anthony Davila	14220	956571	079 PCT

Officer(s)	Allegation	Investigator Recommendation
A.SGT John Zanca	Abuse: Sergeant John Zanca stopped the vehicle in which § 87(2)(b) was an occupant.	
B.POM Anthony Bomparola	Abuse: Police Officer Anthony Bomparola questioned § 87(2)(b)	
C.POM Anthony Bomparola	Abuse: Police Officer Anthony Bomparola searched the vehicle in which § 87(2)(b) was an occupant.	
D.POM Anthony Bomparola	Abuse: Police Officer Anthony Bomparola frisked § 87(2)(b)	
E.POM Anthony Bomparola	Abuse: Police Officer Anthony Bomparola failed to provide § 87(2)(b) with a business card.	
§ 87(4-b), § 87(2)(g)		

Case Summary

On March 31, 2019, § 87(2)(b) filed this complaint with the CCRB via the on-line website.

On March 29, 2019, at approximately 12:08 a.m., in the vicinity of Hopkins Street and Throop Avenue in Brooklyn, officers acting at the direction of Sergeant John Zanca of the 79th Precinct stopped § 87(2)(b)'s vehicle (**Allegation A: Abuse of Authority**, § 87(2)(g)). Police Officer Anthony Bomparola of the 79th Precinct questioned § 87(2)(b), frisked § 87(2)(b) and searched § 87(2)(b)'s vehicle (**Allegations B-D: Abuse of Authority**, § 87(2)(g)). PO Bomparola failed to provide § 87(2)(b) with a business card (**Allegation E: Abuse of Authority**, § 87(2)(g)).

§ 87(4-b), § 87(2)(g)

This case contains body-worn camera footage (Board Reviews 03-06). All timestamps cited in this report refer to the timestamp of the video player, not the timecode embedded in the top left corner of the footage.

Findings and Recommendations

Allegation (A) Abuse of Authority: Sergeant John Zanca stopped the vehicle in which § 87(2)(b) was an occupant.

It is undisputed that officers acting under the direction of Sgt. Zanca stopped § 87(2)(b)'s vehicle. It is undisputed that § 87(2)(b)'s rear side windows and rear windshield were darkly tinted on the date of incident.

In his CCRB interview, dated November 7, 2019, Sgt. Zanca affirmed that he made the decision to stop § 87(2)(b) (Board Review 08).

At 03:22 minutes in PO Bomparola's BWC, PO Bomparola is depicted stating that § 87(2)(b) has been pulled over for his tinted windows, as well as for a non-functional headlight (Board Review 04). § 87(2)(b) is not depicted contesting either of these assertions on BWC.

§ 87(2)(g)

§ 87(2)(b)'s rear windshield and rear side windows are tinted in excess of what is permitted by New York State law. A photograph of § 87(2)(b)'s vehicle, taken by the undersigned investigator on June 13, 2018 following § 87(2)(b)'s verified interview for CCRB 201803623, may be reviewed at Board Review 13. § 87(2)(b) affirmed over the phone that he was still driving this vehicle on the date of incident (Board Review 10). A YouTube video, provided by the New York State Department of Motor Vehicles, which at the 0:47 minute mark contains a depiction of legally tinted windows that permit transmittance of 78%, may be reviewed at the following link: <https://www.youtube.com/watch?v=gIEd4sHHQ0g&spfreload=10>.

New York State Vehicle and Traffic Law Section 375, 12-a(b)(3) prohibits individuals from driving vehicles with rear side windows that permit light transmittance of less than seventy percent if that vehicle is classified as a station wagon, sedan, hardtop, coupe, hatchback or convertible (Board Review 14).

Per People v Robinson, 97 NY2d 341 [2001], vehicle stops are permissible under New York State law where a police officer can "articulate credible facts" establishing reasonable cause that the driver of an automobile has committed a traffic violation (Board Review 15). Neither the

motivation of the officer nor a determination of what a reasonable traffic officer would have done under the circumstances is relevant to the propriety of the stop.

§ 87(2)(g)

Allegation (B) Abuse of Authority: Police Officer Anthony Bomparola questioned § 87(2)(b).

Allegation (C) Abuse of Authority: Police Officer Anthony Bomparola searched the vehicle in which § 87(2)(b) was an occupant.

Allegation (D) Abuse of Authority: Police Officer Anthony Bomparola frisked § 87(2)(b)

At 01:09 minutes into PO Bomparola's body-worn camera footage, he asks if § 87(2)(b) has "anything on [him he's] not supposed to have. Anything illegal? Weapons, drugs." Between 01:34 minutes and 01:55 minutes, after PO Bomparola asks § 87(2)(b) if he had "a little marijuana on [him] before," PO Bomparola is depicted frisking § 87(2)(b). PO Bomparola is depicted searching the vehicle until 04:57 minutes.

In his sworn statement, § 87(2)(b) denied having smoked marijuana prior to the incident or having marijuana on his person (Board Review 12). § 87(2)(b) is additionally depicted on body-worn camera footage contemporaneously denying that he was in possession of marijuana.

In his CCRB testimony provided October 2, 2019, PO Bomparola stated that while § 87(2)(b) was originally pulled over for a violation of the VTL, upon approaching the vehicle he detected a strong odor of marijuana emitting from § 87(2)(b)'s vehicle (Board Review 07). PO Bomparola did not recall whether this was the odor of burnt or unburnt marijuana. PO Bomparola did not think he ever was made aware of additional indicia of criminality during the interaction, and specifically never had any indications throughout the interaction that § 87(2)(b) was in possession of contraband aside from marijuana.

In his CCRB testimony provided November 7, 2019, Sgt. Zanca stated that upon § 87(2)(b) rolling down his windows, he smelled a combination of both burnt and unburnt marijuana emanating from the vehicle (Board Review 08). Sgt. Zanca was otherwise consistent in his testimony with PO Bomparola.

In *People v Cuffie*, 109 AD3d 1200 [4th Dept 2013], the Supreme Court of New York, Appellate Division, Fourth Department noted that "it is well established that '[t]he odor of marijuana emanating from a vehicle, when detected by an officer qualified by training and experience to recognize it, is sufficient to constitute probable cause' to search a vehicle and its occupants" (Board Review 16).

In *People v Garcia*, 20 NY3d 317 [2012], the Court of Appeals of New York held that a police officer may not ask a stopped motorist "pointed questions... that would lead the person approached reasonably to believe that he or she is suspected of some wrongdoing" absent a "founded suspicion that criminal activity is afoot" (Board Review 17).

§ 87(2)(g)

§ 87(2)(g)

It is undisputed that PO Bomparola did not provide § 87(2)(b) with a business card. In his CCRB interview, PO Bomparola stated that he may well have been required to issue § 87(2)(b) a card during the stop, but could not because he was out of cards (Board Review 04).

§ 87(2)(g)

§ 87(4-b), § 87(2)(g)

● § 87(2)(b)

[REDACTED]

[REDACTED] [REDACTED] [REDACTED]

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[REDACTED]
[REDACTED]

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- § 87(2)(b)
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- Sgt. Zanca has been a member of service for seven years. In that time, he has been the subject of 20 allegations in seven other cases.
 - In CCRB 201500673, Sgt. Zanca was the subject of a substantiated allegation regarding a vehicle search. The CCRB recommended that Sgt. Zanca receive formalized training, which was consistent with the NYPD's imposed discipline.
- PO Bomparola has been a member of service for five years. In that time, he has been the subject of 39 other allegations in nine other cases. Three of these, CCRB 201906252, CCRB 201907037, and CCRB 201907703, are currently under investigation.
 - In CCRB 201704022, PO Bomparola was the subject of substantiated allegations regarding a frisk, vehicle search, and vehicle stop. The CCRB recommended that PO Bomparola receive Command Discipline A, while the NYPD disposition and penalty are not noted in CTS.
 - In CCRB 201707955, PO Bomparola was the subject of unsubstantiated frisk and vehicle search allegations, as well as a substantiated allegation regarding a refusal to provide name/shield number. PO Bomparola received command level instructions, which was consistent with the CCRB's recommendation.
 - 201710310, PO Bomparola was the subject of a substantiated vehicle search allegation, a substantiated frisk allegation, and an unsubstantiated allegation regarding the search of a person. The CCRB recommended that PO Bomparola receive Command Discipline B, while the NYPD imposed formalized training as discipline.
- PO Davila has been a member of service for five years. In that time, he has been the subject of 12 allegations in four other cases, none of which were substantiated § 87(2)(g). Two of these cases, CCRB 201907037 and CCRB 201907703, are currently under investigation.

Mediation, Civil and Criminal Histories

- § 87(2)(b) rejected mediation.
- A FOIL request was filed with the NYC Comptroller's Office on November 29, 2019 to determine whether § 87(2)(b) has filed a Notice of Claim regarding this incident and is currently pending.
- § 87(2)(b)

Squad No.: _____

Investigator:

Signature

Print Title & Name

Date

Squad Leader:

Signature

Print Title & Name

Date

Reviewer:

Signature

Print Title & Name

Date